

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

International Union of Painters and Allied Trades
District Council 82/Local Union #106,

Civil File No.:

Plaintiff,

vs.

COMPLAINT

Mesabi Glass, Window and Door, Inc.,

Defendant.

Plaintiff International Union of Painters and Allied Trades District Council 82/Local Union #106 (“the Union”), for its Complaint against Defendant Mesabi Glass, Window and Door, Inc. (“Mesabi Glass”), states and alleges as follows:

PARTIES

1. The Union is a labor organization representing employees in an industry affecting commerce, as those terms are defined under 29 U.S.C. §§ 152(5) and 142(1). The Union maintains its principal office at 2002 London Road, Suite 106, Duluth, Minnesota 55812.
2. Upon information and belief, Mesabi Glass is a corporation organized and existing under the laws of the State of Minnesota and its registered office is located at 510 West 25th Street, Hibbing, Minnesota 55746. Mesabi Glass is an employer in an industry affecting commerce, as those terms are defined under 29 U.S.C. §§ 152(2) and 142(1).

JURISDICTION AND VENUE

3. This action is being brought by a labor organization in order to confirm a Joint Conference Board decision under Section 301 of the Labor Management Relations Act

(“LMRA”), 29 U.S.C. § 185, and this Court has jurisdiction over this matter pursuant to Section 301 of the LMRA.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 29 U.S.C. § 185(a) and (c).

STATEMENT OF FACTS

5. Mesabi Glass is a commercial glazing contractor that is signatory to and bound by a Collective Bargaining Agreement (“Glazier Agreement”) with the Union that is in effect from May 1, 2017 – April 30, 2020.

6. The Glazier Agreement is a multiemployer contract that covers glazing contractors in the Union’s jurisdiction which includes Northeastern Minnesota and Northern Wisconsin.

7. The Glazier Agreement establishes the rates of pay and other terms and conditions of employment of glazing employees and includes a grievance and arbitration procedure found in Article III.

8. The grievance and arbitration procedure contained in Article III provides for the establishment of a “Joint Conference Board” that consists of an equal number of employer and union representatives, not to exceed three (3) from each party.

9. Article III provides the Joint Conference Board with the authority to settle “all matters of controversy or dispute arising out of the operation of [the Glazier Agreement] or affecting the relations between the parties which cannot be settled by duly authorized representatives of the Employer and the Union.”

10. Under Article III, paragraph C, a dispute between an Employer and the Union is only referred to a Board of Arbitration in the event that the Joint Conference Board is unable to settle such dispute.

11. The Union filed a grievance against Mesabi Glass on January 15, 2018, alleging it assigned work to an employee of another union in violation of the Glazier Agreement and that the work should have been assigned to Union employees.

12. The Union filed a second grievance against Mesabi Glass on March 5, 2018, alleging Mesabi Glass subcontracted work in violation of the Glazier Agreement.

13. The parties were unable to resolve the grievance dated January 15, 2018, or the grievance dated March 5, 2018. As a result, both matters were referred to a six-person Joint Conference Board established pursuant to Article III of the Glazier Agreement.

14. The three union representatives on the Joint Conference Board were journeymen glaziers who belong to the Union. The three employer representatives on the Board were owners of commercial glazing contractors that are also signatory to labor agreements with the Union, and together with Defendant, make up all of the commercial glazing contractors signatory with the Union.

15. A letter was sent to Mesabi Glass by certified mail on March 16, 2018, notifying it that a Joint Conference Board hearing would be convened in Duluth, Minnesota on April 10, 2018, to hear the grievances dated January 15, 2018, and March 5, 2018.

16. Despite receiving notice of the Joint Conference Board hearing via certified mail, Mesabi Glass did not attend the hearing on April 10, 2018.

17. On April 19, 2018, the Chairman of the Joint Conference Board issued a Decision that sustained the Union's grievance dated January 15, 2018, and awarded a total sum of \$16,934.92 to remedy the contract violation. The Joint Conference Board declined to award a remedy for the grievance dated March 5, 2018.

18. The Decision of the Joint Conference Board was authorized by all six (6) members of the Board.

19. The Decision of the Joint Conference Board was sent via overnight mail to Dave Anderson, the Chief Executive Officer of Mesabi Glass, on April 20, 2018, and was therefore received by Mesabi Glass on April 21, 2018.

20. Mesabi Glass has not paid any portion of the total amount awarded in the Decision of the Joint Conference Board, nor has it sought to vacate, modify, or correct the Decision of the Joint Conference Board.

CAUSE OF ACTION UNDER SECTION 301 OF THE LMRA

21. Plaintiff incorporates by reference all preceding paragraphs as if fully set forth herein.

22. By assenting to be bound by the Glazier Agreement, Mesabi Glass agreed in a written contract to have all unresolved grievances submitted to a Joint Conference Board.

23. Pursuant to Article III of the Glazier Agreement, a Joint Conference Board convened in Duluth, Minnesota on April 10, 2018, to hear the grievances at issue between the Union and Mesabi Glass following proper notice to all parties.

24. Pursuant to Article III of the Glazier Agreement, the Joint Conference Board had the authority to resolve the grievances and it issued a unanimous Decision on April 19, 2018.

25. Mesabi Glass received the Decision of Joint Conference Board on April 21, 2018, but has failed to comply with the Joint Conference Board's Decision and has failed to seek to vacate, modify, or correct the Decision.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendant as follows:

- A. An order confirming the Decision of Joint Conference Board dated April 19, 2018;
- B. Entry of judgment in the amount of \$16,934.92 which may be enforced as any other judgment; and,
- C. For such further and other relief as the Court deems fit.

Dated this 25th day of July 2018

ANDREW, BRANSKY & POOLE, P.A.

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